

**STATE OF RHODE ISLAND**

**PROVIDENCE, SC.**

**SUPERIOR COURT**

**(FILED: August 24, 2023)**

**STATE OF RHODE ISLAND**

**v.**

**DAVID BEAL**

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**C.A. No. P1-2022-2596A**

**DECISION**

**CRUISE, J.** Before this Court for decision is David Beal’s (Beal) appeal of a Superior Court Magistrate’s (the Magistrate) Order, dated March 10, 2023, that denied Beal’s motion to compel responses to his motion for a bill of particulars (the Order). Jurisdiction is pursuant to G.L. 1956 § 8-2-11.1(d).

**I**

**Facts and Travel**

On July 6, 2022, Beal was indicted by a Grand Jury on eight counts of criminal charges that alleged (1) in July, August, and November 2019, Beal conspired and engaged in, or attempted to engage in, the act of money laundering in violation of G.L. 1956 §§ 11-9.1-15(a)(1), 11-9.1-15(a)(2), 11-9.1-15(a)(3), 11-9.1-15(a)(4), or 11-1-6; (2) in December of 2019, Beal conspired to commit the act of money laundering in the Commonwealth of Massachusetts in violation of G.L. 1956 § 11-1-7; and (3) in March of 2019, Beal filed a false or fraudulent tax return in violation of G.L. 1956 § 44-30-94. (Indictment No: P1/22-2596 (Indictment) 1-4.) On August 10, 2022, Beal filed a Motion for Bill of Particulars (the Motion) that requested the State to provide him with “the alleged specific conduct . . . that the State intends to prove and when . . . these events specifically

occur[ed].”<sup>1</sup> The State filed its objection to Beal’s Motion on August 25, 2022, which argued that (1) a bill of particulars is not intended to provide a defendant with the evidentiary facts in the prosecutor’s case and (2) the State’s Answer to Beal’s motion for discovery, filed on August 25, 2022, satisfies the notice a Bill of Particulars would require. (State’s Objection to Defendant’s Motion for Bill of Particulars.) On January 30, 2023, a hearing was held on the Motion (the Hearing).

At the Hearing, Beal joined in on the arguments advanced by codefendant, Jehane MacDonald (MacDonald), who argued that the State is advancing four alternative theories in the Indictment to charge both defendants with money laundering and, as such, it is impossible for defense counsel to know what facts the State is alleging to support each of the four theories. (Hr’g Tr. (Tr.) at 1:7-15, 2:18-23, Jan. 30, 2023.) Additionally, MacDonald argued that neither the discovery provided, nor the Indictment, indicate the specific unlawful activity or conduct underlying the money laundering and conspiracy charges, which is an element of the crime that the State must prove at trial. *Id.* at 3:6-21. Furthermore, MacDonald argued that there is no indication as to the year, or the activity, that both defendants engaged in that would constitute filing a false tax return under the statute. *Id.* at 4:1-13. Finally, Beal argued that a Bill of Particulars is necessary because he needs to know what unlawful conduct the State is alleging Beal engaged in that the State contends is captured on the casino surveillance videos. *Id.* at 5:8-19.

In response, the State argued that each count of the Indictment includes the date and location of the charged offenses, and eight of the ten offenses were captured on the surveillance

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<sup>1</sup> In the Motion, Beal requested additional factual specifications for only Counts 1 and 2 of the Indictment. However, at the January 30, 2023 hearing, Beal explained that there was an error in the Motion; instead, Beal was requesting specifications for all counts charged against him in the indictment. (Hr’g Tr. at 4:16-22, Jan. 30, 2023.)

videos which were made available to defense counsel in its answer to Beal’s motion for discovery. *Id.* at 6:24-7:5. The State contended that, based on our Supreme Court’s ruling in *State v. Isom*, 251 A.3d 1 (R.I. 2021), its discovery response had satisfied the information that would be provided to Beal in a Bill of Particulars. *Id.* at 7:6-24.

After hearing the parties’ arguments, the Magistrate denied the Motion. *Id.* at 8:15-18. The Order reflecting the Magistrate’s denial was entered on March 10, 2023. (Docket.) On March 23, 2023, Beal timely appealed the Magistrate’s denial to this Court pursuant to Rule 2.9(e) of the Superior Court Rules of Practice. *Id.*; *see also* R.P. 2.9(e) (“[t]he notice of appeal required shall be filed within twenty (20) days of the date of the entry of the . . . order . . . appealed from”). No memoranda in support of the parties’ respective positions was filed nor was argument heard on the instant appeal.

## II

### Standard of Review

A Superior Court Justice’s review of a decision of a magistrate is governed by § 8-2-11.1(d) which provides, in pertinent part:

“A party aggrieved by an order entered by the . . . magistrate shall be entitled to a review of the order by a justice of the superior court. Unless otherwise provided in the rules of procedure of the court, the review shall be on the record and appellate in nature. The court shall, by rules of procedure, establish procedures for review of orders entered by the . . . magistrate.” Section 8-2-11.1(d).

Rule 2.9 of the Superior Court Rules of Practice presently governs the review standard and provides, in pertinent part:

“(h) **Review.** The Superior Court justice shall make a de novo determination of those portions to which the appeal is directed and may accept, reject, or modify, in whole or in part, the judgment, order, or decree of the magistrate. The justice, however, need not formally conduct a new hearing and may consider the record developed before the magistrate, making his or her own

determination based on that record whether there is competent evidence upon which the magistrate's judgment, order, or decree rests. The justice may also receive further evidence, recall witnesses or recommit the matter with instructions." R.P. 2.9(h).

The record on appeal includes "[t]he original papers and exhibits filed with the Superior Court, the transcript of the proceedings, and the docket entries[.]" R.P. 2.9(f). If the record indicates that competent evidence supports the magistrate's findings, the Court "shall not substitute [its] view of the evidence for [the magistrate's] even though a contrary conclusion could have been reached." *State v. Dennis*, 29 A.3d 445, 450 (R.I. 2011) (citing *Tim Hennigan Co. v. Anthony A. Nunes, Inc.*, 437 A.2d 1355, 1357 (R.I. 1981)).

### **III**

#### **Analysis**

An indictment provides a defendant with sufficient notice of the charged offense(s) if the offense is charged either "(1) [b]y using the name given to the offense in terms of either the common law or by statute; or (2) [b]y stating the definition of the offense in terms of substantially the same meaning." *State v. Jimenez*, 276 A.3d 1258, 1270 (R.I. 2022) (quoting G.L. 1956 § 12-1.4); *see also State v. Saluter*, 715 A.2d 1250, 1253 (R.I. 1998) ("an indictment may track the words of the statute criminalizing the act being charged"). A defendant confronted with an ambiguous indictment can seek a bill of particulars. *See State v. Hunt*, 137 A.3d 689, 693 (R.I. 2016); *see also* Super. R. Crim. P. 7(f).

Rule 7(f) of the Superior Court Rules of Criminal Procedure dictates the procedure for obtaining a Bill of Particulars, which states, in pertinent part:

"Upon motion of a defendant the court shall direct the filing of a bill of particulars. A motion for a bill of particulars may be made within thirty (30) days after arraignment or at such later time as the court may permit. A bill of particulars may be amended at any time subject to such conditions as justice requires." Super. R. Crim. P. 7(f).

Furthermore, our Supreme Court has held that ““the function of a bill of particulars is to apprise a defendant of the evidentiary details establishing the facts of the offense when such facts have not been included in the indictment or information.”” *State v. Footman*, 196 A.3d 758, 763 (R.I. 2018) (quoting *State v. LaChapelle*, 638 A.2d 525, 527 (R.I. 1994)). The primary purpose of a bill of particulars ““is to avoid prejudicial surprise at trial.”” *State v. Gregson*, 113 A.3d 393, 397 (R.I. 2015) (quoting *LaChapelle*, 638 A.2d at 527). Moreover, ““the granting of a bill of particulars in any civil or criminal proceeding is within the discretion of the justice who hears the motion and his discretion will not be disturbed unless it appears that there has been an abuse of discretion.”” *Gregson*, 113 A.3d at 397 (quoting *Union Mortgage Co. v. Rocheleau*, 51 R.I. 345, 348, 154 A. 658, 660 (1931)).

In the present case, the Indictment alleges eight counts of criminal charges against Beal which include the dates and locations for each charge of (1) money laundering in violation of §§ 11-9.1-15(a)(1)-(4); (2) conspiracy to commit money laundering in violation of §§ 11-1-6 and 11-1-7; and (3) filing a false tax return in violation of § 44-30-94. (Indictment 1-4.) For the money laundering charges, the State is advancing multiple theories under § 11-9.1-15(a) upon which it intends to prove its case against Beal. *See id.* Our Supreme Court has explained that when crafting an indictment “[t]he preferable manner is to charge a single offense as one count, setting forth multiple theories that may be alleged[,]” which is precisely the course of action the State took with respect to the money laundering charges. *State v. Matthews*, 88 A.3d 375, 381 (R.I. 2014); *see also* Super. R. Crim. P. 7(c) (“[i]t may be alleged in a single count that the means by which the defendant committed the offense are unknown or that [he or she] committed it by one or more specified means”). Rhode Island law is clear that the State is not prohibited from advancing multiple theories it intends to prove for a single count of an indictment; nor is the State required

to narrow its prosecution to a single theory. *See Matthews*, 88 A.3d at 381 (citing *United States v. Roy*, 408 F.3d 484, 492 n.4 (8th Cir. 2005)). Therefore, after reviewing the Indictment, the Court finds that the Indictment adequately informs Beal of each criminal charge that he must defend against at trial.

Furthermore, the posture of the present appeal is similar to that of *Isom*. In *Isom*, the defendant filed a motion for a Bill of Particulars requesting further factual details for each count of the indictment. *Isom*, 251 A.3d at 4. The State responded to said motion by explaining that the requested factual information was included in their discovery response—i.e., a video capturing the entirety of the defendants’ unlawful conduct—which the State argued satisfied the information that would be provided in a Bill of Particulars. *Id.* In response, the defendant filed a motion to compel, which the trial justice denied because he determined that the State had provided the defendant with ample discovery and the indictment contained specific factual allegations of the charged offenses and, therefore, a Bill of Particulars was not necessary. *Id.* at 4-5. Following the defendant’s trial and conviction, the defendant filed an appeal with our Supreme Court. *Id.* at 5. On appeal, our Supreme Court determined that the trial justice did not err in denying the defendant’s motion because the indictment and the discovery provided by the State—including the video recording of the entire encounter—was sufficient to avoid judicial surprise at trial and, as such, no Bill of Particulars was necessary. *Id.* at 8-9.

In the instant case, Beal moved for a Bill of Particulars in an attempt to have the State provide additional factual details as to each count of the Indictment. *See Motion*. The State opposed Beal’s Motion because it believed that the discovery provided to Beal was more than sufficient to satisfy the information the State would provide in a Bill of Particulars. The State’s discovery response includes thirty pieces of tangible evidence and twenty-nine potential witnesses

the State may utilize to prove their case against Beal. *See generally* State’s Answer to Defendant’s Motion for Discovery and Inspection. Of the thirty pieces of tangible evidence, all of which were made available to defense counsel, there are sixteen surveillance videos of Beal at the Twin River Casino that coincide with the dates in question in the Indictment and purportedly capture Beal’s unlawful conduct. *See generally id.* In accordance with our Supreme Court’s ruling in *Isom*, it is apparent in this case that the State’s discovery response—i.e., the sixteen surveillance videos—encompass the information that the State would be required to provide in a Bill of Particulars and is sufficient to avoid judicial surprise at trial. *See Isom*, 251 A.3d at 8-9. Therefore, no Bill of Particulars is necessary in this case. *See id.* Accordingly, the Magistrate’s determination that a Bill of Particulars was not necessary because the State provided additional factual evidence in support of the Indictment in its discovery response is supported by competent evidence in the record. *See Dennis*, 29 A.3d at 450.

## **IV**

### **Conclusion**

For the reasons set forth in this Decision, after *de novo* review of the Order, this Court affirms the decision of the Magistrate in whole and further determines that competent evidence in the record supports said decision.



**RHODE ISLAND SUPERIOR COURT**  
*Decision Addendum Sheet*

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**TITLE OF CASE:** State of Rhode Island v. David Beal

**CASE NO:** P1-2022-2596A

**COURT:** Providence County Superior Court

**DATE DECISION FILED:** August 24, 2023

**JUSTICE/MAGISTRATE:** Cruise, J.

**ATTORNEYS:**

**For Plaintiff:** David Bonzagni, Esq.

**For Defendant:** Michael J. Pisaturo, Esq.